

H.R.3448

Public Health Security and Bioterrorism Preparedness and Response Act of 2002 (Enrolled as Agreed to or Passed by Both House and Senate)

TITLE IV--DRINKING WATER SECURITY AND SAFETY

SEC. 401. TERRORIST AND OTHER INTENTIONAL ACTS.

The Safe Drinking Water Act (title XIV of the Public Health Service Act) is amended by inserting the following new section after section 1432:

SEC. 1433. TERRORIST AND OTHER INTENTIONAL ACTS.

(a) VULNERABILITY ASSESSMENTS- (1) Each community water system serving a population of greater than 3,300 persons shall conduct an assessment of the vulnerability of its system to a terrorist attack or other intentional acts intended to substantially disrupt the ability of the system to provide a safe and reliable supply of drinking water. The vulnerability assessment shall include, but not be limited to, a review of pipes and constructed conveyances, physical barriers, water collection, pretreatment, treatment, storage and distribution facilities, electronic, computer or other automated systems which are utilized by the public water system, the use, storage, or handling of various chemicals, and the operation and maintenance of such system. The Administrator, not later than August 1, 2002, after consultation with appropriate departments and agencies of the Federal Government and with State and local governments, shall provide baseline information to community water systems required to conduct vulnerability assessments regarding which kinds of terrorist attacks or other intentional acts are the probable threats to--

(A) substantially disrupt the ability of the system to provide a safe and reliable supply of drinking water; or

(B) otherwise present significant public health concerns.

(2) Each community water system referred to in paragraph (1) shall certify to the Administrator that the system has conducted an assessment complying with paragraph (1) and shall submit to the Administrator a written copy of the assessment. Such certification and submission shall be made prior to:

(A) March 31, 2003, in the case of systems serving a population of 100,000 or more.

(B) December 31, 2003, in the case of systems serving a population of 50,000 or more but less than 100,000.

(C) June 30, 2004, in the case of systems serving a population greater than 3,300 but less than 50,000.

`(3) Except for information contained in a certification under this subsection identifying the system submitting the certification and the date of the certification, all information provided to the Administrator under this subsection and all information derived therefrom shall be exempt from disclosure under section 552 of title 5 of the United States Code.

`(4) No community water system shall be required under State or local law to provide an assessment described in this section to any State, regional, or local governmental entity solely by reason of the requirement set forth in paragraph (2) that the system submit such assessment to the Administrator.

`(5) Not later than November 30, 2002, the Administrator, in consultation with appropriate Federal law enforcement and intelligence officials, shall develop such protocols as may be necessary to protect the copies of the assessments required to be submitted under this subsection (and the information contained therein) from unauthorized disclosure. Such protocols shall ensure that--

`(A) each copy of such assessment, and all information contained in or derived from the assessment, is kept in a secure location;

`(B) only individuals designated by the Administrator may have access to the copies of the assessments; and

`(C) no copy of an assessment, or part of an assessment, or information contained in or derived from an assessment shall be available to anyone other than an individual designated by the Administrator.

At the earliest possible time prior to November 30, 2002, the Administrator shall complete the development of such protocols for the purpose of having them in place prior to receiving any vulnerability assessments from community water systems under this subsection.

`(6)(A) Except as provided in subparagraph (B), any individual referred to in paragraph (5)(B) who acquires the assessment submitted under paragraph (2), or any reproduction of such assessment, or any information derived from such assessment, and who knowingly or recklessly reveals such assessment, reproduction, or information other than--

`(i) to an individual designated by the Administrator under paragraph (5),

`(ii) for purposes of section 1445 or for actions under section 1431, or

`(iii) for use in any administrative or judicial proceeding to impose a penalty for failure to comply with this section,

shall upon conviction be imprisoned for not more than one year or fined in accordance with the provisions of chapter 227 of title 18, United States Code, applicable to class A misdemeanors, or both, and shall be removed from Federal office or employment.

`(B) Notwithstanding subparagraph (A), an individual referred to in paragraph (5)(B) who is an officer or employee of the United States may discuss the contents of a vulnerability assessment submitted under this section with a State or local official.

`(7) Nothing in this section authorizes any person to withhold any information from Congress or from any committee or subcommittee of Congress.

`(b) EMERGENCY RESPONSE PLAN- Each community water system serving a population greater than 3,300 shall prepare or revise, where necessary, an

emergency response plan that incorporates the results of vulnerability assessments that have been completed. Each such community water system shall certify to the Administrator, as soon as reasonably possible after the enactment of this section, but not later than 6 months after the completion of the vulnerability assessment under subsection (a), that the system has completed such plan. The emergency response plan shall include, but not be limited to, plans, procedures, and identification of equipment that can be implemented or utilized in the event of a terrorist or other intentional attack on the public water system. The emergency response plan shall also include actions, procedures, and identification of equipment which can obviate or significantly lessen the impact of terrorist attacks or other intentional actions on the public health and the safety and supply of drinking water provided to communities and individuals. Community water systems shall, to the extent possible, coordinate with existing Local Emergency Planning Committees established under the Emergency Planning and Community Right-to-Know Act (42 U.S.C. 11001 et seq.) when preparing or revising an emergency response plan under this subsection.

`(c) RECORD MAINTENANCE- Each community water system shall maintain a copy of the emergency response plan completed pursuant to subsection (b) for 5 years after such plan has been certified to the Administrator under this section.

`(d) GUIDANCE TO SMALL PUBLIC WATER SYSTEMS- The Administrator shall provide guidance to community water systems serving a population of less than 3,300 persons on how to conduct vulnerability assessments, prepare emergency response plans, and address threats from terrorist attacks or other intentional actions designed to disrupt the provision of safe drinking water or significantly affect the public health or significantly affect the safety or supply of drinking water provided to communities and individuals.

`(e) FUNDING- (1) There are authorized to be appropriated to carry out this section not more than \$160,000,000 for the fiscal year 2002 and such sums as may be necessary for the fiscal years 2003 through 2005.

`(2) The Administrator, in coordination with State and local governments, may use funds made available under paragraph (1) to provide financial assistance to community water systems for purposes of compliance with the requirements of subsections (a) and (b) and to community water systems for expenses and contracts designed to address basic security enhancements of critical importance and significant threats to public health and the supply of drinking water as determined by a vulnerability assessment conducted under subsection (a). Such basic security enhancements may include, but shall not be limited to the following:

- `(A) the purchase and installation of equipment for detection of intruders;
- `(B) the purchase and installation of fencing, gating, lighting, or security cameras;
- `(C) the tamper-proofing of manhole covers, fire hydrants, and valve boxes;
- `(D) the rekeying of doors and locks;
- `(E) improvements to electronic, computer, or other automated systems and remote security systems;

`(F) participation in training programs, and the purchase of training manuals and guidance materials, relating to security against terrorist attacks;

`(G) improvements in the use, storage, or handling of various chemicals; and

`(H) security screening of employees or contractor support services.

Funding under this subsection for basic security enhancements shall not include expenditures for personnel costs, or monitoring, operation, or maintenance of facilities, equipment, or systems.

`(3) The Administrator may use not more than \$5,000,000 from the funds made available under paragraph (1) to make grants to community water systems to assist in responding to and alleviating any vulnerability to a terrorist attack or other intentional acts intended to substantially disrupt the ability of the system to provide a safe and reliable supply of drinking water (including sources of water for such systems) which the Administrator determines to present an immediate and urgent security need.

`(4) The Administrator may use not more than \$5,000,000 from the funds made available under paragraph (1) to make grants to community water systems serving a population of less than 3,300 persons for activities and projects undertaken in accordance with the guidance provided to such systems under subsection (d).

SEC. 402. OTHER SAFE DRINKING WATER ACT AMENDMENTS.

The Safe Drinking Water Act (title XIV of the Public Health Service Act) is amended by inserting the following new sections after section 1433 (as added by section 401 of this Act):

`SEC. 1434. CONTAMINANT PREVENTION, DETECTION AND RESPONSE.

`(a) IN GENERAL- The Administrator, in consultation with the Centers for Disease Control and, after consultation with appropriate departments and agencies of the Federal Government and with State and local governments, shall review (or enter into contracts or cooperative agreements to provide for a review of) current and future methods to prevent, detect and respond to the intentional introduction of chemical, biological or radiological contaminants into community water systems and source water for community water systems, including each of the following:

`(1) Methods, means and equipment, including real time monitoring systems, designed to monitor and detect various levels of chemical, biological, and radiological contaminants or indicators of contaminants and reduce the likelihood that such contaminants can be successfully introduced into public water systems and-source water intended to be used for drinking water.

`(2) Methods and means to provide sufficient notice to operators of public water systems, and individuals served by such systems, of the introduction of chemical, biological or radiological contaminants and the possible effect of such introduction on public health and the safety and supply of drinking water.

`(3) Methods and means for developing educational and awareness programs for community water systems.

`(4) Procedures and equipment necessary to prevent the flow of contaminated drinking water to individuals served by public water systems.

`(5) Methods, means, and equipment which could negate or mitigate deleterious effects on public health and the safety and supply caused by the introduction of contaminants into water intended to be used for drinking water, including an examination of the effectiveness of various drinking water technologies in removing, inactivating, or neutralizing biological, chemical, and radiological contaminants.

`(6) Biomedical research into the short-term and long-term impact on public health of various chemical, biological and radiological contaminants that may be introduced into public water systems through terrorist or other intentional acts.

`(b) FUNDING- For the authorization of appropriations to carry out this section, see section 1435(e).

`SEC. 1435. SUPPLY DISRUPTION PREVENTION, DETECTION AND RESPONSE.

`(a) DISRUPTION OF SUPPLY OR SAFETY- The Administrator, in coordination with the appropriate departments and agencies of the Federal Government, shall review (or enter into contracts or cooperative agreements to provide for a review of) methods and means by which terrorists or other individuals or groups could disrupt the supply of safe drinking water or take other actions against water collection, pretreatment, treatment, storage and distribution facilities which could render such water significantly less safe for human consumption, including each of the following:

`(1) Methods and means by which pipes and other constructed conveyances utilized in public water systems could be destroyed or otherwise prevented from providing adequate supplies of drinking water meeting applicable public health standards.

`(2) Methods and means by which collection, pretreatment, treatment, storage and distribution facilities utilized or used in connection with public water systems and collection and pretreatment storage facilities used in connection with public water systems could be destroyed or otherwise prevented from providing adequate supplies of drinking water meeting applicable public health standards.

`(3) Methods and means by which pipes, constructed conveyances, collection, pretreatment, treatment, storage and distribution systems that are utilized in connection with public water systems could be altered or affected so as to be subject to cross-contamination of drinking water supplies.

`(4) Methods and means by which pipes, constructed conveyances, collection, pretreatment, treatment, storage and distribution systems that are utilized in connection with public water systems could be reasonably protected from terrorist attacks or other acts intended to disrupt the supply or affect the safety of drinking water.

`(5) Methods and means by which information systems, including process controls and supervisory control and data acquisition and cyber systems at community water systems could be disrupted by terrorists or other groups.

`(b) ALTERNATIVE SOURCES- The review under this section shall also include a review of the methods and means by which alternative supplies of drinking water could be provided in the event of the destruction, impairment or contamination of public water systems.

`(c) REQUIREMENTS AND CONSIDERATIONS- In carrying out this section and section 1434--

`(1) the Administrator shall ensure that reviews carried out under this section reflect the needs of community water systems of various sizes and various geographic areas of the United States; and

`(2) the Administrator may consider the vulnerability of, or potential for forced interruption of service for, a region or service area, including community water systems that provide service to the National Capital area.

`(d) INFORMATION SHARING- As soon as practicable after reviews carried out under this section or section 1434 have been evaluated, the Administrator shall disseminate, as appropriate as determined by the Administrator, to community water systems information on the results of the project through the Information Sharing and Analysis Center, or other appropriate means.

`(e) FUNDING- There are authorized to be appropriated to carry out this section and section 1434 not more than \$15,000,000 for the fiscal year 2002 and such sums as may be necessary for the fiscal years 2003 through 2005.'.

SEC. 403. MISCELLANEOUS AND TECHNICAL AMENDMENTS.

The Safe Drinking Water Act is amended as follows:

(1) Section 1414(i)(1) is amended by inserting '1433' after '1417'.

(2) Section 1431 is amended by inserting in the first sentence after 'drinking water' the following: ', or that there is a threatened or potential terrorist attack (or other intentional act designed to disrupt the provision of safe drinking water or to impact adversely the safety of drinking water supplied to communities and individuals), which'.

(3) Section 1432 is amended as follows:

(A) By striking '5 years' in subsection (a) and inserting '20 years'.

(B) By striking '3 years' in subsection (b) and inserting '10 years'.

(C) By striking '\$50,000' in subsection (c) and inserting '\$1,000,000'.

(D) By striking '\$20,000' in subsection (c) and inserting '\$100,000'.

(4) Section 1442 is amended as follows:

(A) By striking 'this subparagraph' in subsection (b) and inserting 'this subsection'.

(B) By amending subsection (d) to read as follows:

'(d) There are authorized to be appropriated to carry out subsection (b) not more than \$35,000,000 for the fiscal year 2002 and such sums as may be necessary for each fiscal year thereafter.'